

HB 858 -- DISCLOSURE OF NEWS SOURCES

SPONSOR: McGaugh

This bill prohibits any covered person, as defined in the bill, from being required to disclose, in any federal or state proceeding, including but not limited to any criminal, civil, or administrative proceeding, the source of any published or unpublished, broadcast or non-broadcast information obtained in the gathering, receiving, or processing of information for any covered person. A covered person must not be required to disclose, in any federal or state proceeding, including but not limited to any criminal, civil, or administrative proceeding, any unpublished or non-broadcast information obtained or prepared in gathering, receiving, or processing of information for any covered person.

If any covered person does not disclose the information and claims this privilege, the individual or entity requesting the information is authorized to file a motion with the court for an order to disclose the information sought. The motion must allege the name of the covered person claiming the privilege, the entity with which the covered person was connected at the time of obtaining the information, the specific information sought and how it is relevant to the proceedings, and the necessity of disclosure of the information.

In granting or denying the motion, the court is required to consider the nature of the proceedings, the merits of the claim or defense, the adequacy of any remedy otherwise available, the possibility of establishing by other means what the source or information will tend to prove, the public interest in protecting the confidentiality of any source as balanced against the public interest in requiring disclosure, and the relevancy of the source or information.

An order granting the disclosure of the information must only be issued if the court finds in a written order or in recorded proceedings that the information sought does not involve matters or details necessary in any proceeding that are required to be kept secret under federal or state law, and that all other available sources of information have been exhausted, and disclosure of the information is essential to the protection of the public interest involved in the proceedings.

If the court orders that the information be disclosed, it must also order the covered person to disclose the information the court has determined should be disclosed, subject to any protective conditions the court may deem necessary or appropriate. The privilege to not disclose the information remains in effect during

any appeal process.